

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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KELLY SUTTNER,

Plaintiff,

v.

Case No. 20-C-583

ANDREW SAUL, Commissioner  
of Social Security,

Defendant.

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**ORDER DENYING MOTION TO PROCEED IN FORMA PAUPERIS**

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Plaintiff Kelly Suttner has filed a complaint seeking review of the decision of the Commissioner of Social Security. Plaintiff has requested leave to proceed *in forma pauperis*, pursuant to 28 U.S.C. § 1915, which permits an indigent plaintiff to commence a federal court lawsuit without paying required filing fee. *In forma pauperis* is Latin for “in the manner of a pauper.” BLACK’S LAW DICTIONARY, at 783 (West 1999). A motion seeking such relief must be supported by an affidavit asserting an inability “to pay such fees or give security therefor” and stating “the nature of the action, defense or appeal and affiant’s belief that the person is entitled to redress.” 28 U.S.C. § 1915(a)(1). Plaintiff filed such an affidavit, but it fails to show that she is indigent.

The affidavit states Plaintiff has no monthly income and the spouse makes \$22.50 per hour. However, the motion fails to state how many hours are worked weekly or monthly by the spouse, leaving the court unable to even calculate the amount of family income. At the rate listed, if Plaintiff’s spouse works a 40-hour work week, their family income would exceed their expenses based upon the information provided. In addition, Plaintiff did not answer the questions regarding

the value of the retirement account or the amount of equity in their home, which appears to be paid off since no rent or mortgage payment is listed. Plaintiff also notes \$800.00 in available funds in an account.

The purpose of the petition and affidavit form is to explain to the court why the plaintiff's filing fee should be waived. This affidavit does not do so. While I would like to waive the fee for plaintiff and allow the case to proceed for free, I am required to follow the law. The law requires litigants to pay a filing fee unless they are too poor to do so. On this record, Plaintiff's motion must be denied. The denial is without prejudice, however. It may be that Plaintiff failed to include all of the allowable monthly expenses or there is another reason for being unable to pay the filing fee. If that is the case Plaintiff may file a supplement to the motion to proceed IFP. Absent additional justification, however, the fee will not be waived. Accordingly, Plaintiff's request to proceed *in forma pauperis* is denied and Plaintiff shall pay the filing fee within 21 days of the date of this order or risk dismissal.

SO ORDERED this 14th day of April, 2020.

s/ William C. Griesbach  
William C. Griesbach, District Judge  
United States District Court